

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MARTIN HOLDINGS, L.L.C.
LAFOURCHE PARISH
AI # 19407

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

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* ENFORCEMENT TRACKING NO.
* AE-PP-03-0427

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* Docket No. _____
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SETTLEMENT

The following Settlement is hereby agreed to between **MARTIN HOLDINGS, L.L.C.** ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation that operates the **MARTIN TERMINAL SOUTH YARD** located at 365 A. J. Estate Road approximately three miles northwest of Port Fourchon and two miles west of Louisiana Highway 3090 in Lafourche Parish, Louisiana ("the Facility"). The facility was built by Martin Terminal, Inc., and began operations in 1979 and continued operating under the same name until purchased by Martin Holdings, L.L.C. on January 2, 2001. The facility was granted its initial Air Permit No. 1560-00131-00 on April 7, 1997, under which it is currently operating. A permit application and Emission Inventory Questionnaire (EIQ) dated June 7, 2002, and additional information dated July 18, 2002, and November 24, 2003, were received requesting an initial Part 70 operating permit.

II

On March 5, 2004, the Department issued a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-03-0427 (NOPP), which was based upon the following findings of fact:

The Respondent operated three methanol storage tanks (Emission Points 2-02, 3-02, and 4-02) prior to obtaining a permit. Subsequent to the violation, the Respondent submitted an application for an initial Part 70 permit dated June 7, 2002, incorporating the unpermitted methanol storage tanks to the emission point source list. The construction, modification, or operation of a facility which may ultimately result in an initiation or increase in emission of air contaminants prior to approval from the permitting authority is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of \$4,400, of which \$188.69 represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement.

V

Respondent, in addition to the penalty amount specified in Paragraph IV above and as part of this Settlement, agrees to expend the amount of \$10,000 to implement and/or perform the

following beneficial environmental project:

- A. Conduct periodic seminars covering all local, state, and federal permits required of all port operators in the Port of Fourchon area for a calendar year following the date the Department signs this Settlement Agreement.
- B. Respondent shall submit quarterly reports regarding its progress on the above project. The first shall be due on the 5th day of the third month following the date the Department signs this Settlement. Quarterly reports shall be submitted on the 5th of every third month thereafter until the project is completed. Each such quarterly report shall include a description of the project, tasks completed, tasks remaining, the percentage completed, and money expended on the project through the date of the report. Upon completion of the project required under this Settlement, Respondent shall submit a final report to include a summary of all the information previously submitted and a total amount spent on the project listed above. It shall also contain a certification that the project was completed as described.
- C. If Respondent does not spend the amount of \$10,000, then it shall, in its final report, propose additional projects for the Department's approval or pay to the Department in an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.
- D. The total amount of money expended by Respondent on cash payments to DEQ and on beneficial environmental projects, as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30: 2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the file review, the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act and the rules relating to beneficial environmental projects set forth in LAC 33:I.Chapter 25.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Lafourche Parish. The advertisement, in form,

wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

Karen Duet
(Signature)

Karen Duet
(Printed or Typed)

Luz France
(Signature)

Luz France
(Printed or Typed)

MARTIN HOLDINGS, L.L.C.

BY: Dino Chouest
(Signature)

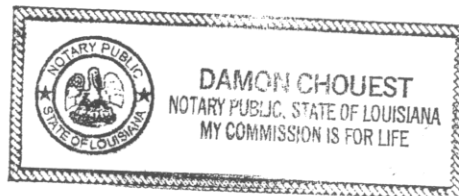
Dino Chouest
(Printed or Typed)

TITLE: President

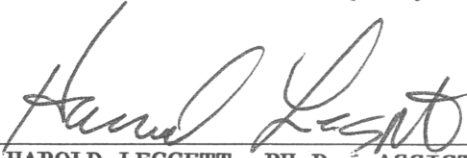
THUS DONE AND SIGNED in duplicate original before me this 22nd day of April, 20 04, at Belliano, LA.

Damon Chouest
NOTARY PUBLIC (ID # 24998)

Damon Chouest
(Printed or Typed)



STATE OF LOUISIANA
Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY: 
HAROLD LEGGETT, PH.D., ASSISTANT SECRETARY
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 1st day of
July, 20 04, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 27771)

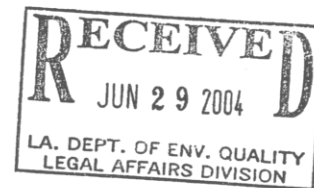
Steven Beard
(Printed or Typed)

Approved: 
R. Bruce Hammatt, Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005



June 28, 2004

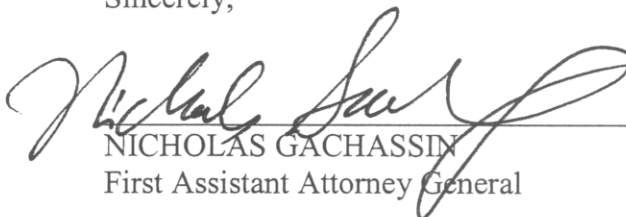
Mike D. McDaniel, Secretary
La. Department of Environmental Quality
Office of the Secretary
P.O. Box 4301
Baton Rouge, LA 70821-4301

Re: Review of DEQ Settlement;
Martin Holdings, LLC
AE-PP-03-0427

Dear Secretary McDaniel:

Pursuant to the authority granted to me by R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,


NICHOLAS GACHASSIN
First Assistant Attorney General

NG/cbw